

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1094-12

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on September 28, 2005

Signature:

Typed or printed name: Adrian T. Calderone

Application Number

09/973,401

Filed

October 9, 2001

First Named Inventor

Mark Karrs

Art Unit

Examiner

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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September 28, 2005

Registration number if acting under 37 CFR 1.34 _____

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of _____ forms are submitted.

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PATENT
Attny. Docket No. 1094-12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Karrs et al.

EXAMINER: Duong, Thanh P.

SERIAL NO.: 09/973,401

GROUP ART UNIT: 1764

FILED: October 9, 2001

DATED: September 28, 2005

FOR: MODULAR SYSTEM AND METHOD FOR THE
CATALYTIC TREATMENT OF A GAS STREAM

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

This Request for review is submitted with a Notice of Appeal in response to the final Office Action dated June 28, 2005. Review is requested for the following reasons:

1. Regarding the rejection of claims 1-3, 8, 14 and 15 under 35 U.S.C. 35 U.S.C. 102(b) as being anticipated by EP 0166480 ("EU '480"), the Office Action states that the EU '480 discloses gas flow modification means (flare portion 34 after constricted portion 13).
 - A) EU '480 shows a chamber 15 having inlets 17 and outlet 18 for directing gas into an afterburner region 14. This is not disclosed as a gas flow modification means.
 - B) Applicants' claim 1 recites, *inter alia*, gas flow modification means for decreasing gas flow velocity and increasing gas flow uniformity. EU '480 does not disclose any gas flow means accomplishing both of these functions.
 - C) EU '480 does not show any equivalent to the gas flow modification means structure disclosed in Applicant's specification.

2. Regarding the rejection of claims 1, 21-23, 31, 34-35 and 38 under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,282,355 (Yamaguchi).

A) Yamaguchi does not disclose or suggest gas flow modification means for decreasing gas flow velocity and increasing gas flow uniformity as recited in independent claims 1, nor does Yamaguchi disclose any equivalent to the gas flow modification means structure disclosed in Applicant's specification.

B) Yamaguchi does not disclose recycling of a portion of the flue gas from downstream of the axial fan to a convection section of the furnace upstream of the axial fan, as recited in independent claim 21. Yamaguchi discloses at Fig. 2 the recycling of flue gas via recirculation fan 10 to vaporizer 11 to be mixed with ammonia and steam or air. It is then sent via line 12 directly back into the nitrogen removal system 6. This is not equivalent to or suggestive of recycling flue gas to a convection section of the furnace upstream of the fan.

3. With respect to the remaining rejections which are based on obviousness, the rejections are based, in part, on the contention that EU '480 and Yamaguchi, singularly or in combination, disclose the elements of claims 1 and 21, respectively. However, since claims 1 and 21 are patentably distinct from EU '480 and Yamaguchi as described above, each of the above combinations are legally deficient to establish a *prima facie* case of obviousness because the combinations do not disclose or suggest all of the claim elements.

With respect to claim 21, it is respectfully submitted that, at the very least, the combination of EU '480 and Yamaguchi does not disclose or suggest the invention of claim 21 as a whole because nowhere does either EU '480 or Yamaguchi, singularly or in combination, disclose or suggest a system for catalytically treating a gas stream, which comprises, *inter alia*, “[a] means for recycling a portion of the flue gas from downstream of the axial fan to a convection section of the furnace located upstream of the axial fan” as generally recited in claim 21.

As correctly noted by the Examiner, EU '480 does not disclose, *inter alia*, a means for recycling a portion of the flue gas from downstream of the axial fan to a convection section of the furnace located upstream of the axial fan.

Further, as noted above, Yamaguchi does not disclose recycling a portion of the gas flow stream to a convection section of the furnace located upstream of the axial fan, as generally claimed in Claim 21. Rather, Yamaguchi discloses that a portion of the exhaust gas may be recycled into the NOx removal system 6 that is located downstream from the flue 4, which is located downstream from the turbine assembly 1. Indeed, nowhere in Yamaguchi does Yamaguchi disclose a convection section located upstream from an axial fan. Therefore, Yamaguchi fails to cure the deficiencies of EU '480.

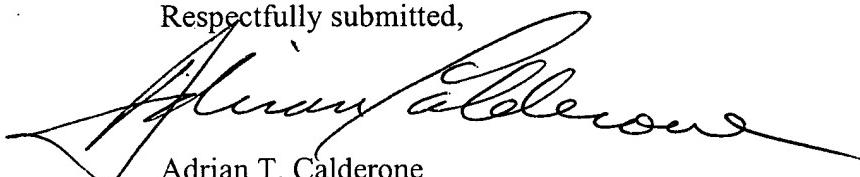
Accordingly, since the combination of EU '480 and Yamaguchi fails to disclose or suggest the invention of claim 21 for at least the reasons stated above, Claim 21 is believed to be patentable and non-obvious over the combination of EU '480 and Yamaguchi.

Claims 22-38 depend from claim 21. As such, claims 22-38 are believed to be allowable for at least the same reasons as given for claim 21 above.

CONCLUSION

For at least the reasons stated above the claims are believed to be allowable over the cited prior art. The listing of reasons herein for requesting pre-appeal brief review is not intended to preclude Applicants from presenting further or different reasons for patentability in a subsequent appeal or further prosecution of this application.

Respectfully submitted,



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